

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>IN RE: BLUE CROSS BLUE SHIELD ANTITRUST LITIGATION (MDL No. 2406)</b>	) ) ) ) ) ) )	<b>Master File No. 2:13-CV-20000-RDP</b>  <b>This document relates to:</b>  <i>Advanced Surgery Center, et al v. CareFirst of Maryland, Inc.,</i> <b>Case No. 2:13-cv-00562-RDP</b>
--	---------------------------------	--

**ADVANCED SURGERY PLAINTIFFS' SUPPLEMENTAL STATUS REPORT**

The *Advanced Surgery* Plaintiffs file this Supplemental Status Report to bring the Court and CareFirst's attention to the positions taken by other parties with respect to the Court's Order regarding the filing of the Consolidated Complaint. In the tag-along action, *LifeWatch Services, Inc. v. Highmark, Inc., et al*, No. 2:13-cv-00598-RDP, the parties filed a status report with the Court on August 27, 2014. In that status report, the parties, including the various Blues defendants involved in that action, took the position that the Consolidated Amended Complaint did not supersede the *LifeWatch* Complaint and claims. The status report notes that:

The parties to the LifeWatch Action agree that the Complaint filed by LifeWatch Services, Inc. is not superseded by either of the Consolidated Complaints filed by Providers and Subscribers in the MDL. The parties further agree that the Consolidated Provider Complaint is not the operative complaint for purposes of the claims brought by LifeWatch Services, Inc. in Case No. 2:13-cv-20000.

In light of this, CareFirst is the only party taking the position that these tag along provider actions were superseded entirely by the Provider Plaintiffs' Consolidated Amended Complaint. With respect to this issue, there is no significant difference between the posture of the *LifeWatch* tag along and the *Advanced* tag along. This further underscores the

arguments made by the *Advanced* Plaintiffs in the July 15, 2014 status report (Doc. 210; Doc. 9), that the filing of the Consolidated Amended Complaint without including the *Advanced* Plaintiffs in no way means that the claims of the *Advanced* Plaintiffs have been abandoned or dismissed. As with the *LifeWatch* complaint, the Providers' Consolidated Amended Complaint specifically noted that it did not supersede the *Advanced Surgery* complaint. (Doc. 86, ¶ 32).

Respectfully submitted,

/s/ Joe R. Whatley, Jr.  
Joe R. Whatley, Jr., Esq.  
W. Tucker Brown  
Charlene P. Ford  
WHATLEY KALLAS, LLP  
2001 Park Place North  
1000 Park Place Tower  
Birmingham, AL 35203  
Tel: (205) 488-1200  
Fax: (800) 922-4851  
Email: jwhatley@whatleykallas.com  
Email: tbrown@whatleykallas.com  
Email: cford@whatleykallas.com

/s/Edith M. Kallas  
Edith M. Kallas (admitted pro hac vice)  
WHATLEY KALLAS, LLP  
1180 Avenue of the Americas, 20th Floor  
New York, NY 10036  
Tel: (212) 447-7060  
Fax: (800) 922-4851  
Email: ekallas@whatleykallas.com

Patrick J. Sheehan  
WHATLEY KALLAS, LLP  
60 State Street, 7<sup>th</sup> Floor  
Boston, MA 02109  
Tel: (617) 573-5118  
Fax: (617) 573-5090  
Email: psheehan@whatleykallas.com

Deborah Winegard  
WHATLEY KALLAS, LLP  
1068 Virginia Avenue, NE  
Atlanta, GA 30306  
Tel: (404) 607-8222  
Fax: (404) 607-8451  
Email: dwinegard@whatleykallas.com

Henry Quillen  
WHATLEY KALLAS, LLP  
159 Middle Street, Suite 2C  
Portsmouth, NH 03801  
Tel: (603) 294-1591  
Fax: (800) 922-4851  
hquillen@whatleykallas.com

***Attorneys for Plaintiffs:***

*Advanced Surgery Center of Bethesda, LLC;  
Bethesda Chevy Chase Surgery Center, LLC;  
Deer Pointe Surgical Center, LLC;  
Hagerstown Surgery Center, LLC;  
Leonardtown Surgery Center, LLC; Maple  
Lawn Surgery Center, LLC; Piccard Surgery  
Center, LLC; Riva Road Surgical Center, LLC;  
SurgCenter of Bel Air, LLC; SurgCenter of  
Glen Burnie, LLC; SurgCenter of Greenbelt,  
LLC; SurgCenter at National Harbor, LLC;  
SurgCenter of Silver Spring, LLC; SurgCenter  
of Southern Maryland, LLC; SurgCenter of  
Western Maryland, LLC; SurgCenter of White  
Marsh, LLC; Timonium Surgery Center, LLC  
and Westminster Surgery Center, LLC*

Barry A. Ragsdale  
SIROTE & PERMUTT, PC  
2311 Highland Avenue South  
Birmingham, AL 35205  
Tel: 205-930-5100  
Fax: 205-930-5101  
Email: bragsdale@sirote.com

***Plaintiffs' Liaison Counsel***

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 2nd day of September, 2014, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Joe R. Whatley, Jr.

Joe R. Whatley, Jr.